

Via ECFS

July 3, 2017

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Ex Parte Notice:* GN Docket No. 16-142, *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*

Dear Ms. Dortch:

On June 29, 2017, the undersigned along with Rebecca Hanson – Sr. Vice President for Strategy and Policy for Sinclair Broadcast Group, Mark Aitken – Vice President for New Technology, Sinclair Broadcast Group and John Hane – outside counsel with Pillsbury Winthrop Shaw Pittman met with members of the Commission staff to discuss the issues raised in the above-captioned proceeding. A list of those in attendance is attached.

The presentation focused on the tension that appears to undergird most of the issues raised in the proceeding: ***how does the Commission maintain universal service while also enabling innovation?*** That concern permeates virtually all the issues raised in the NPRM and is significantly complicated by not having a transitionary second channel to support the deployment of the new, non-backward compatible standard. The Commission, broadcasters and other stakeholders must do the best they can within that constraining framework.

We noted that true universal broadcast service does not exist today. The current ATSC 1.0 standard, based on the 8 VSB modulation protocol, does not work well inside buildings or support mobile reception. Those deficiencies disenfranchise millions of viewers, who expect their communications services to work everywhere. The ATSC 3.0 (“Next Gen”) standard overcomes those deficiencies. But bridging the gap between ATSC 1.0 and Next Gen without dedicated transition channels necessitates some temporary tradeoffs. Recognizing that no perfect solutions exists, the challenge then is to find the best attainable solution for each market. Doing that requires flexibility. In that context, we commented on the following issues.

A/321 vs. A/322

The Commission should avoid over-regulation to permit innovation: in other regulated telecom services, the Commission’s rules support maximum innovation by specifying interference *requirements* rather than technical *standards*. We believe the Commission should follow a similar approach here.

The Commission does not need to specify A/322 to ensure universal compatibility. Equipment manufacturers build to industry standards – and service providers use those standards – in the ordinary course without any government mandates. Mandating A/322 would hamper innovation without any corresponding benefit.

The existing interference parameters *already specify* the emission envelop in A/53 (Section 73.622(h) of the Commission’s rules). That sets the limit for out-of-band DTV emissions. It defines the emission mask and ratios of desired to undesired signals. Section 73.622(h) will apply to Next Gen broadcasts. There are many forms of transmission that can operate within the constraints of Section 73.622(h). Mandating a single technical standard to assure compliance is not necessary and would hamper innovation. The Commission should specify only the “Bootstrap” portion of the standard (A/321) in the Rules.

Vacant Channel Use

Ideally, the Commission would assign a temporary transition channel for each station. That’s impossible – but the Commission should not let the unattainably perfect be the enemy of the good. Where vacant channels are available, the Commission should allow broadcasters to use them as dedicated transition channels to ensure maximum continuity of service. Doing so would support the twin goals of enhancing universal service and enabling innovation.

The Commission should give broadcasters proposing to use a vacant channel for 3.0 deployment priority over applicants for new television stations and acknowledge that such stations retain priority over displacement applications of LPTV and translator stations. This would be a temporary priority to encourage speed of deployment based upon articulated public interest benefits including innovation, expanded services and service areas, enhanced public safety support and emergency capabilities built into the standard. Displaced secondary stations that are unable to find displacement channels in an area in which a vacant channel is used for the ATSC 3.0 transition should maintain their displacement rights until the transition channels are returned.

SFN/DTS Coverage Waivers

Broadcasters need substantial flexibility in deploying single frequency networks. The purpose of SFNs, after all, is to maximize service – with the ultimate goal of essentially universal broadcast service. The existing DTS rules are too restrictive to permit ATSC 3.0 SFNs to reach their full potential to better serve Americans. We have proposed that the Commission permit us to “shrink the gap” between the 41 dBμ predictive coverage contour and the 26 dBμ interference contour. So long as emissions are contained within the interference contour of the primary full power transmitter location (or interference agreements have been reached with affected parties), broadcasters should be able to locate SFN towers to increase the portion of the area within the interference contour in which useful service can be provided. This will greatly increase the utility of Next Gen television by improving service and expanding coverage without any additional assignments of spectrum. In addition, as explained in ONE Media’s comments, any broadcaster deploying a SFN should be permitted to expand service beyond its interference contour by filing a major change application. The Commission’s existing processing rules, including auction of mutually exclusive applications when necessary, are appropriate to ensure adherence to the Commission’s allotment and assignment priorities are expressed.

Simulcasting Requirement

We agree that, in general, stations deploying ATSC 3.0 should continue to make their primary 1.0 signals available to viewers in their markets. But the Commission's ATSC 3.0 deployment approach must recognize that simulcasting will not always be practical or even possible. Stations that wish to upgrade to Next Gen but which cannot provide an ATSC 1.0 simulcast despite reasonable efforts to do so should nonetheless be permitted to upgrade their service.

We expect the instances in which simulcasting is not feasible to be the rare exception. To illustrate at least part of the challenge of universal simulcasting we have attached a list of television markets that will have either one or two stations (after accounting for stations cleared in the incentive auction). Simulcasting of full power stations is obviously impossible in markets with a single station. In two station markets it is conceivable that one station will wish to launch Next Gen service but the other may not. At some point, we submit that the station wishing to innovate should have a path to do so, even if it cannot persuade another station to cooperate. It is also imperative that, once converted, these stations should retain their mandatory carriage rights.

ATSC 3.0 offers many capabilities that could be forestalled, perhaps by many years, by a strict (identical replication of programming) definition of simulcasting. These include the ability to target certain viewers by geography or other objective criteria, and to provide targeted emergency alerts, news, weather and advertising. It is features like these – which cannot be replicated in an ATSC 1.0 simulcast – that will help drive market demand for ATSC 3.0 devices.

There are multiple examples of situations where the ATSC 3.0 signal might be different than the 1.0 signal and there is no reasoned way to choose which should be the “default program” carried on the ATSC 1.0 channel. ATSC 3.0 broadcasts might include:

- content targeted to different geographic zones,
- differently stacked newscasts within a market,
- localized media-rich emergency warnings,
- unique content requested by certain viewers,
- dynamically flexible content to address, for example, breaking news, extra inning baseball games or overtime football games,
- customized advertising/dynamic ad insertion,
- IP/web content integration, or
- any number of other features that cannot be provided using the existing standard.

Rights clearances could also affect the degree to which simulcasts can be identical. Some programs may be cleared for ATSC 1.0 but not Next Gen. Presumably, substitute programs transmitted on the Next Gen channel will be less popular than the ATSC 1.0 programs for which they are standing in. But that may not always be the case.

During the simulcast period, we expect that Next Gen signals will include programming that is either substantially the same, or that is comparable to the programming carried on the ATSC 1.0 signal, taking into account the ability to enhance that programming using the 3.0 capabilities. A strict simulcasting requirement would put the Commission in the unenviable position of deciding

which program stream (ATSC 1.0 or Next Gen) should be the “default” for purposes of determining whether the other program stream qualifies as a simulcast. This may be a straightforward decision early in the transition. But as Next Gen penetration grows, such decisions would necessarily be arbitrary.

In choosing how to define simulcasting the Commission should bear in mind how changing conditions will affect the meaning of the simulcasting requirement. Early in the transition, when penetration of Next Gen receivers is low, it seems obvious that the ATSC 1.0 stream would be the “default” programming, and the Commission should have less concern if the Next Gen stream is not a perfect simulcast because of rights clearances or other issues. But later in the transition, when far more people rely on Next Gen than ATSC 1.0, the reverse may be the case. In between – for the majority of the transition period – bright lines will be hard to find.

We submit that broadcasters have every incentive to ensure their simulcasts are the closest possible replicas. We note that programs that are not simulcast will result in significant ratings dilution – and ratings are the lifeblood of over the air broadcasting. The Commission, however, should not place itself in the position to mandate any specific “default” programming.

Please contact the undersigned should you have any questions regarding this matter.

Sincerely,

/s/

Jerald N. Fritz
Executive Vice President,
Strategic and Legal Affairs
ONE Media, LLC

Attachment – Limited Station Markets

cc: Listed on attached

FCC Staff attending ONE Media/Sinclair Broadcast Group ATSC 3.0 *Ex Parte* Meeting

Media Bureau Staff

Front Office

Nancy Murphy Associate Chief

Policy Division

Martha Heller Chief

Steven Broeckaert Senior Deputy Chief

Brendan Murray Deputy Chief

Evan Baranoff

Kathy Berthot

Kim Matthews

F. Mario Trujillo Intern

Engineering Division

John Wong Chief

Video Division

Barbara Kreisman Chief

Kevin Harding Deputy Chief

Evan Morris

Office of General Counsel Staff

Susan Aaron

David Konczal

Office of Engineering & Technology Staff

Paul Murray Associate Chief

Martin Doczkat Chief, Technical Analysis Branch

Barbara Pavon

Mark Colombo

Consumer and Governmental Affairs Bureau Staff

Sarah Burgart Intern, Disability Rights Office

ATTACHMENT

Limited Station Markets					
DMA Rank	Market	Count of Full Powers	Calls	Affil	Owner
187	Lafayette, IN	1	WLFI	CBS	USA TV Holdings LLC
194	Parkersburg, WV	1	WTAP	NBC	Gray Television Inc
199	Mankato, MN	1	KEYC	CBS	United Comm Corp
204	Zanesville, OH	1	WHIZ	NBC	SE Ohio TV System
210	Glendive, MT	1	KXGN	CBS	Glendive Bcstg Corp
146	Palm Springs, CA	2	KESQ	ABC	News-Press & Gazette
146	Palm Springs, CA	2	KMIR	NBC	OTA Bcstg LLC
158	Wheeling, WV- Steubenville, OH	2	WTOV	NBC	Sinclair Bcst Group
158	Wheeling, WV- Steubenville, OH	2	WTRF	CBS	Nexstar Media Group
162	Sherman, TX - Ada, OK	2	KTEN	NBC	Lockwood Bcstg
162	Sherman, TX - Ada, OK	2	KXII	CBS	Gray Television Inc
168	Hattiesburg-Laurel, MS	2	WDAM	NBC	Raycom Media Inc
168	Hattiesburg-Laurel, MS	2	WHLT	CBS	Nexstar Media Group
177	Harrisonburg, VA	2	WHSV	ABC	Gray Television Inc
177	Harrisonburg, VA	2	WVPT	PBS	Shenandoah Vlley ETV
189	Lima, OH	2	WLIO	NBC	Block Communications
189	Lima, OH	2	WTLW	IND	American Christian
200	Ottumwa, IA-Kirksville, MO	2	KTVO	ABC	Sinclair Bcst Group
200	Ottumwa, IA-Kirksville, MO	2	KYOU	FOX	American Spirit Med
201	St. Joseph, MO	2	KQTV	ABC	USA TV Holdings LLC
201	St. Joseph, MO	2	KTAJ	TBN	Trinity Bcstg Ntwk
203	Victoria, TX	2	KAVU	ABC	Morgan Murphy Media
203	Victoria, TX	2	KVCT	FOX	Surtsey Productions
205	Helena, MT	2	KTVH	NBC	Cordillera Comms
205	Helena, MT	2	KUHM	PBS	Montana State Univ
206	Presque Isle, ME	2	WAGM	CBS	Gray Television Inc
206	Presque Isle, ME	2	WMEM	PBS	Maine Public Bcstg
208	Alpena, MI	2	WBKB	CBS	Thunder Bay Bcstg
208	Alpena, MI	2	WCML	PBS	Central MI Univ
209	North Platte, NE	2	KNOP	NBC	Gray Television Inc
209	North Platte, NE	2	KPNE	PBS	Nebraska Educ Telecm
114	Springfield-Holyoke, MA	3	WGBY**	PBS	WGBH Educ Foundation
114	Springfield-Holyoke, MA	3	WGGB	ABC	Meredith Corp
114	Springfield-Holyoke, MA	3	WWLP	NBC	Nexstar Media Group
115	Youngstown, OH	3	WFMJ	NBC	NPM Inc
115	Youngstown, OH	3	WKBN*	CBS	Nexstar Media Group
115	Youngstown, OH	3	WYTV	ABC	Vaughan Media
157	Biloxi-Gulfport, MS	3	WLOX	ABC	Raycom Media Inc
157	Biloxi-Gulfport, MS	3	WMAH	PBS	MS Auth for ETV
157	Biloxi-Gulfport, MS	3	WXXV	FOX	Morris Multimedia
171	Utica, NY	3	WFXV	FOX	Nexstar Media Group

171	Utica, NY	3	WKTV	NBC	Heartland Media LLC
171	Utica, NY	3	WUTR	ABC	Mission Bcstg
173	Dothan, AL	3	WDFX	FOX	Raycom Media Inc
173	Dothan, AL	3	WDHN	ABC	Nexstar Media Group
173	Dothan, AL	3	WTVY	CBS	Gray Television Inc
174	Lake Charles, LA	3	KLTL	PBS	Louisiana ETV
174	Lake Charles, LA	3	KPLC	NBC	Raycom Media Inc
174	Lake Charles, LA	3	KVHP	FOX	American Spirit Med
176	Jackson, TN	3	WBBJ	ABC	Bahakel Comm
176	Jackson, TN	3	WJKT	FOX	Nexstar Media Group
176	Jackson, TN	3	WLJT	PBS	W TN Pub TV Council
182	Jonesboro, AR	3	KAIT	ABC	Raycom Media Inc
182	Jonesboro, AR	3	KTEJ	PBS	AR ETV Network
182	Jonesboro, AR	3	KVTJ	IND	Victory TV Network
183	Charlottesville, VA	3	WCAV	CBS	Gray Television Inc
183	Charlottesville, VA	3	WHTJ	PBS	Commonwealth Public
183	Charlottesville, VA	3	WVIR*	NBC	Waterman Bcstg Corp
188	Bend, OR	3	KOAB	PBS	Oregon Public Bcstg
188	Bend, OR	3	KOHD	ABC	Telephone & Data Sys
188	Bend, OR	3	KTVZ	NBC	News-Press & Gazette
191	Twin Falls, ID	3	KIPT	PBS	ID State Bd of Ed
191	Twin Falls, ID	3	KMVT	CBS	Gray Television Inc
191	Twin Falls, ID	3	KXTF	IND	Brady, Brian
193	Greenwood-Greenville, MS	3	WABG	ABC	Cala Broadcast Part
193	Greenwood-Greenville, MS	3	WMAO	PBS	MS Auth for ETV
193	Greenwood-Greenville, MS	3	WXVT	DRK	Wagner, John
196	San Angelo, TX	3	KIDY	FOX	TEGNA
196	San Angelo, TX	3	KLST	CBS	Nexstar Media Group
196	San Angelo, TX	3	KSAN	NBC	Mission Bcstg

Summary

Post-auction DMAs with 1 station: at least 5 Post-auction DMAs with 2 stations: at least 14 Post-auction DMAs with 3 stations: at least 12

Source: BIA Kelsey

* Sold in auction and channel sharing agreement indicated

** Sold in auction and no channel sharing agreement indicated